

**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
June 14, 2011 Meeting
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**State of Maine
Board of Licensure in Medicine
137 SHS, 161 Capitol Street
Augusta, Maine 04333-0137
June 14, 2011 Meeting**

BOARD MEMBERS PRESENT

Sheridan R. Oldham, M.D., Chairman
Gary R. Hatfield, M.D., Board Secretary
Cheryl Clukey
David H. Dumont, M.D.
Maroulla Gleaton, M.D.
David D. Jones, M.D.
David Nyberg, Ph.D.

BOARD STAFF PRESENT

Randal C. Manning, Executive Director
Mark C. Cooper, M.D., Medical Director
Jean M. Greenwood, Board Coordinator
Dan Sprague, Assistant Executive Director
Tim Terranova, Consumer Assistant
Maria MacDonald, Board Investigator

ATTORNEY GENERAL'S OFFICE

Dennis Smith, Assistant Attorney General
Detective Peter Lizanecz

Dr. Dreher was excused.

The Board meets in public session with the exception of the times listed below, which are held in executive session. Executive sessions are held to consider matters which, under statute, are confidential (1 M.R.S. §405) and 10 M.R.S.A. §8003-B, and 22 M.R.S. § 1711-C.) The Board moved, seconded, and voted the following executive session times. During the public session portions of the meeting actions are taken on all matters discussed during executive session. Discussions are projected on a screen by PowerPoint projection.

PUBLIC SESSIONS

9:09 a.m. – 9:10 a.m.
10:34 a.m. – 10:35 a.m.
11:51 a.m. – 12:09 p.m.
1:11 p.m. – 3:02 p.m.

PURPOSE

Call to Order
Public Session
Public Session
Public Session and Adjournment

EXECUTIVE SESSION

9:10 a.m. – 10:24 a.m.
10:35 a.m. – 11:48 a.m.

Reviewing Progress Reports and New Complaints
Reviewing New Complaints and Assessment & Direction

RECESS

10:24 a.m. – 10:34 a.m.
11:48 a.m. – 11:51 a.m.
12:09 p.m. – 1:11 p.m.

I. CALL TO ORDER

Dr. Oldham called the meeting to order at 9:08 a.m.

A. Amendments to Agenda

1. Section VII (B) (5) add CR 10-165 Patrick Fallon, M.D.

2. Section VIII (E) Amended Lapsed List

II. PROGRESS REPORTS

1. CR 11-065

Ms. Clukey moved to dismiss CR 11-065. Dr. Jones seconded the motion, which passed unanimously.

The patient alleges the physician acted unprofessionally during an independent medical examination (IME) by asking the patient to "lay down on the table like you're about to be spanked." She also complains that the exam room had a window which was not completely covered, which made her very uncomfortable.

The physician's response was a detailed description of how he performs independent medical examinations. He stated it would be very rare to have a patient lie face down. The Board's investigator interviewed the physician and his office chaperone. The physician denied making any offensive statements. He stated it would be very rare to have a patient lie face down and his office chaperone denied "ever hearing such a thing." The complainant was also personally interviewed. She stated at first after the physician denied making the statement, she questioned whether she had heard him correctly, but she states again that she knows what she heard and stands by it. The complainant could not remember if the chaperone was in the room when the statement was made or if she entered with the physician after she put on a johnny. There is a marked difference between what she and the physician stated occurred during the exam.

Photographs of the examination room show that there is a ¼" opening around the paper cover up of the examination window which could make patients uncomfortable. The physician stated he was not aware of this and said he would inform the physician from whom he rents the space.

2. CR 11-019 JOHN M. YINDRA, M.D.

Ms. Clukey moved to dismiss CR 11-019 John M. Yindra, M.D. with a letter of guidance. Dr. Jones seconded the motion, which passed 3-2-0-2 with Dr. Hatfield and Dr. Gleaton recused.

The patient complains she was treated disrespectfully and in a demeaning manner during a medical appointment. She states she was experiencing acute pain due to previously diagnosed fibromyalgia and made the appointment with an alternate physician because her primary physician was not available. She requested pain medication to get her through this painful flair up, which was so extreme that she could put no pressure on her legs or arms. The patient states the physician accused her of seeking narcotics, which she vehemently denied. The patient also states the physician questioned the validity of fibromyalgia as a real disease.

The physician states he saw a "few red flags" that concerned him. The patient communicated that she used medical marijuana and is certified through her physician and the State of Maine. The physician also states he did not have her old medical records to review. He states he tries to check the Office of Substance Abuse (OSA) web site when he has concerns but the web site may

have been difficult to access on this day and for these reasons he was not willing to prescribe narcotic pain medications. He states he did not ignore her complaint and prescribed Tramadol, a pain medication. The physician admits he had a bad day and didn't employ his best bedside manner.

In her rebuttal, the patient clearly repeats she was not seeking narcotics, never asked for them and was upset that the physician kept intimating that she was. She was also upset that the physician wrote in her chart that "the patient had mild pain and distress and that she was agitated." She states this was untrue and that if he had checked her medical records he would have seen that she had never been described as an "agitated patient." She came to the appointment to get relief from extreme, intolerable pain and was treated in a demeaning and disparaging manner.

The letter of guidance will emphasize the importance of empathy and professionalism with every patient encounter regardless of other distractions.

3. CR 11-022

Dr. Nyberg moved to dismiss CR 11-022. Dr. Dumont seconded the motion, which passed 6-0-0-1 with Dr. Gleaton recused.

The complainant claims that two of the physician's office staff members were rude when she tried to make a referral appointment and was refused. The refusal was based on office policy concerning billing issues. Further investigation did not produce any evidence of staff misconduct.

4. CR 11-081

Ms. Clukey moved to dismiss CR 11-081. Dr. Jones seconded the motion, which passed unanimously,

The patient went to the emergency department due to bleeding in his mouth and nose and was referred to the physician. The patient alleges he was medically treated with unsanitary procedures by the physician. The patient alleges the physician did not wash his hands or use gloves while treating him and used a suction tool on both the patient's nose and throat several times without washing or re-sterilizing the instrument. The knife used to excise the hemangioma on his tongue was simply picked up off the counter, which he believed couldn't have been sterile.

The physician responds that it is policy that a physician should wash his hands after he has finished touching a patient and all instruments are sterilized after they are used on a patient. The suction tube was not cleaned after it was put in the patient's nose and before placing it in his mouth as "these places are continuous surfaces and touching one or the other doesn't transmit anything that would not be transmitted anyway. The procedure we did was not a sterile procedure; therefore, it was not necessary to drape or use sterile gloves."

The Board's investigator visited the physician's office to discuss procedures and also to take photographs of the examination room. The photos show a room that is spotlessly clean and well organized with sterilization equipment in place.

5. COMPLAINT STATUS REPORT (FYI)

6. REVIEW DRAFT LETTERS OF GUIDANCE

A. CR 10-281 HARRY RICHTER, M.D., JR., M.D.

Dr. Gleaton moved to approve the letter of guidance to Harry Richter, Jr., M.D. Dr. Dumont seconded the motion, which passed unanimously.

B. CR 10-605 JOSHUA P. COLE, M.D.

Dr. Hatfield moved to approve the letter of guidance to Joshua P. Cole, M.D. Dr. Dumont seconded the motion, which passed unanimously.

7. CONSUMER ASSISTANT FEEDBACK (FYI)

III. NEW COMPLAINTS

8. CR 11-030

Dr. Hatfield moved to investigate further CR 11-030. Dr. Dumont seconded the motion, which passed unanimously.

9. CR 11-102

Dr. Dumont moved to dismiss CR 11-102. Dr. Gleaton seconded the motion, which passed unanimously.

In this complaint the patient alleges that the ophthalmologist did not explain the laser treatment that was done for the patient's retinal detachment. The procedure was extremely painful and got progressively worse with each "hit" from the laser. The patient feels the physician caused unnecessary pain as she knows other people who received laser treatment who did not have severe pain.

The physician states in her response that she always explains in detail how the procedure will be done and that it can cause pain. She states she and her staff monitor the patient for discomfort and none was noted in this patient but that if the patient had said anything they would have tried to make some accommodation. The physician explains that different types of laser treatments for different types of eye problems cause differing degrees of discomfort so it is hard to compare patient experiences.

A review of the office record shows an appropriate informed consent. There is little discussion in the procedure notes of risks and benefits of the procedure. Documenting such discussion is advisable, particularly for a procedure that is likely to be uncomfortable. Medical care was otherwise appropriate and the physician expresses her remorse that the patient may have suffered.

10. CR 10-533

Dr. Dumont moved to dismiss CR 10-533. Dr. Hatfield seconded the motion, which passed unanimously.

The complainant alleges that the physician discontinued a particular type of pain medication due to the risk of it causing seizures. The physician indicated that he did, in fact, discontinue the particular type of pain medication due to the risk of it causing the complainant seizures, and that the complainant's psychiatrist concurred in this decision. A review of the medical records corroborates the physician's response and rationale for discontinuing the pain medication.

11. CR 10-565

Dr. Jones moved to dismiss CR10-565. Dr. Hatfield seconded the motion, which passed unanimously.

The complainant is a resident in a state institution and the physician is employed by that institution to provide specialized services. The main issue is disagreement about prescriptions for depression and ADHD medications that were deemed potentially harmful either to the complainant if not taken, or to other residents in the event that they might have access to them. The patient was offered alternative medicines to the psycho stimulants that he wanted and was offered his previous depression medicine in crushed form, but he refused both. When an internal investigation of the complainant concerning misuse of medicines was resolved, the physician thought the prescription issue was also resolved when he reordered the original drug in tablet form that had been stopped. The physician acted appropriately within the bounds of institutional policy and procedure.

12. CR 11-015

Dr. Dumont moved to dismiss CR 11-015. Dr. Nyberg seconded the motion, which passed unanimously.

In this case, a patient complains that his shoulder and back pain were not properly evaluated and treated. He complains the physician refused to order an MRI of his shoulder. He also complains that narcotic pain medication was not prescribed. The physician explains his care and use of medication and the fact that this complaint is longstanding and the patient had an MRI of his shoulder a couple years earlier which was essentially normal. A review of the record reveals evaluations of back and shoulder pain going back more than 10 years.

13. CR 11-017

Dr. Hatfield moved to dismiss CR 11-017. Dr. Jones seconded the motion, which passed unanimously.

The complainant states that the physician promised to prescribe him a benzodiazepine medication for his anxiety if medical records showed this medication to have previously been effective. He states the physician subsequently refused to prescribe this medication despite having the records showing that the medication had helped him in the past.

The physician replies that he made no such promise, and in fact had told the complainant that he would only consider prescribing a benzodiazepine once the complainant had fully participated in behavioral therapy for his anxiety.

The physician's response is supported by the medical records.

14. CR 11-042

Dr. Jones moved to dismiss CR 11-042. Dr. Nyberg seconded the motion, which passed unanimously.

The patient, who resides in an institution, complains that his psychiatrist has stopped needed medications and failed to provide adequate mental health care. A review of the medical records shows a reasoned and thoughtful plan of care. Medications were changed when the patient was found to be hoarding his pills.

15. CR 11-099

Dr. Hatfield moved to dismiss CR 11-099. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

The complainant is a resident in a state institution and the physician is a consultant for special medical services. The issue is whether the physician is justified in not recommending cosmetic surgery – a skin graft to correct self-inflicted facial scarring – requested by the complainant. After examination, the physician determined the surgery was not appropriate at this time.

16. CR 11-018

Ms. Clukey moved to dismiss CR 11-018. Dr. Jones seconded the motion, which passed unanimously.

The patient, who had been confined to a wheelchair and bed for approximately two months after orthopedic surgery, saw the physician for follow up in her office. The patient alleges the physician told him to get up and walk out of the office, then left the room. He alleges he tried to walk and fell into the arms of a relative who had accompanied him on the visit. The physician's note is clear that the patient was advised to progress toward weight bearing ambulation but only

following further physical therapy. The remaining allegations concern the New York Workers' Compensation Board, with whom the physician has had no communication.

17. CR 11-038

Dr. Hatfield moved to dismiss CR 11-038. Dr. Dumont seconded the motion, which passed unanimously.

The complainant feels she was treated inappropriately because the physician told her to call upon worsening of her symptoms so that a further evaluation could be done; however, when she called a few days later she was then told by the covering physician to go to the emergency department to have the symptoms evaluated. She also complains that she came in for a scheduled appointment with the physician, but was told that there was no appointment scheduled for her and that she would need to come back at another time. She feels these problems occurred specifically because she does not have good insurance.

The covering physician who asked the complainant to go to the emergency department states that he did so because her symptoms were worrisome to him, as they were significantly different from the symptoms recorded during the recent office visit. This is reasonable, given the complaint was of chest pain radiating to the arm and shoulder.

The office staff admits that there was an error made with the appointment, and the staff was going to have the complainant seen by another physician at that time rather than have her come back at another time, as per office protocol; however, the complainant walked out before this could be arranged. The office manager has met with the staff to formulate ways to keep this from happening again.

It is unlikely that the patient's insurance status played any role here.

18. CR 11-010 SAMUEL McCARTHY-O'FLAHERTY, M.D.

Dr. Jones moved to dismiss CR 11-010 Samuel McCarthy-O'Flaherty, M.D. with a letter of guidance. Ms. Clukey seconded the motion, which passed unanimously.

This is a complex case involving five physicians, two of whom have made statements that cannot be corroborated, one directly contradicting the other, and a third who has made a statement that has proved inaccurate. The initial care of this patient in an emergent situation was prolonged and unsuccessful. The initial emergency physician failed to initiate definitive care. The second emergency physician (Dr. McCarthy-O'Flaherty) accepted the patient at the change of shift, after the patient had been in the emergency department for over 3 hours. The hospitalist also arrived at the change of shift and the first emergency physician in his note transferred the patient to the care of both the hospitalist and Dr. McCarthy-O'Flaherty.

The patient remained in critical condition after the change of shift and was initially evaluated only by the hospitalist. This evaluation resulted in a decision to transfer the patient to another hospital even though there were cardiologists on staff at the first hospital. The hospitalist had

understood the on-call cardiologist as recommending transfer of this patient. The hospitalist, after an hour with this patient, asked Dr. McCarthy-O'Flaherty to assume care of the patient and facilitate the transfer. The hospitalist did not document his evaluation, care or conversations concerning this patient.

This complaint by the Board of Medicine concerns possible incompetent and unprofessional behavior by Dr. McCarthy-O'Flaherty. Dr. McCarthy-O'Flaherty accepted the decisions of the previous emergency department physician without review, and there was no documented reassessment of the patient. There was a documented conversation with the accepting physician but no conversation with the on-call cardiologist, just second-hand instruction purported to be from this cardiologist obtained verbally from the hospitalist. There was no reassessment of the patient or discussion in the chart of other possible diagnoses or possible interventions.

Dr. McCarthy-O'Flaherty states he facilitated the transfer to help the hospitalist, and felt he had appropriately set up the transfer by speaking to the accepting physician and obtaining the patient's permission for transfer. The Board dismisses this complaint with the following concerns and recommendations;

1. The emergency physician is always responsible for all patients in the emergency room, at all times. It was Dr. McCarthy-O'Flaherty's responsibility to talk to the on-call cardiologist, and develop an appropriate plan for the patient.
2. Unstable patients need to be stabilized before transport, unless there are unusual extenuating circumstances.
3. Reassessment of critically ill patients needs to occur throughout their emergency department course and needs to be documented.

Dr. Jones moved to issue a Board complaint against the hospitalist (CR 11-256) in this case. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Dumont recused.

19. CR 11-014

Ms. Clukey moved to dismiss CR 11-014. Dr. Jones seconded the motion, which passed unanimously.

In this case, a patient complains the physician and clinic told him they would help him but all they did was lie to him and cause him grief. The physician responds that there were insurance issues with a prescribed medication and he and the clinic staff tried to work with the patient on this issue. However, the patient was abusive to staff on several occasions and was dismissed from the practice. The record documents these issues and events.

20. CR 11-025

Dr. Jones moved to investigate further CR 11-025. Dr. Dumont seconded the motion, which passed unanimously.

21. CR 11-029

Dr. Jones moved to order an informal conference in the matter of CR 11-029. Dr. Dumont seconded the motion, which passed unanimously.

22. CR 09-492

Dr. Oldham moved to investigate further CR 09-492. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

23. CR 10-052

Dr. Oldham moved to investigate further CR 10-052. Dr. Nyberg seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

24. CR 10-055

Dr. Oldham moved to investigate further CR 10-055. Dr. Gleaton seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

25. CR 11-062 DAN W. JOACHIM, M.D.

Dr. Gleaton moved to order an adjudicatory hearing in the matter of CR 11-062 Dan W. Joachim, M.D. Dr. Jones seconded the motion, which passed unanimously.

26. CR 11-064

Dr. Hatfield moved to investigate further CR 11-064. Dr. Dumont seconded the motion, which passed unanimously.

27. CR 11-077

Dr. Dumont moved to dismiss CR 11-077. Dr. Nyberg seconded the motion, which passed unanimously.

This is a complicated case in which a family member accuses a radiation oncologist of removing the patient's feeding tube without the rest of the medical team's knowledge. This action allegedly led to severe malnutrition and dehydration that compromised the patient's condition and led to his death.

Review of the record shows that the feeding tube had been placed at the time of treatment for laryngeal cancer two years earlier and that when the patient finished treatment he slowly started eating again and was referred to Speech Therapy to assist with this. The patient subsequently developed abdominal wall problems and it was decided, in conjunction with the patient and his daughter, that when the patient could take enough sustenance orally the feeding tube could be removed. This was delayed initially as the patient was then diagnosed with lung cancer and needed more surgery. The tube was eventually removed by the Gastroenterology Service but the

patient was soon diagnosed with widely metastatic carcinoma and expired on the Hospice Service a short time later. The removal of the feeding tube does not appear to have contributed to the patient's decline or death.

28. CR 11-082

Dr. Jones moved to dismiss CR 11-082. Dr. Gleaton seconded the motion, which passed unanimously.

The patient complains that he was unable to make an appointment with this doctor for a work related injury. The patient had been discharged from this practice three years earlier for non-payment of his account. The Board does not get involved with billing disputes. There may have been a relationship between the business and the physician, but this can not obligate the physician to see the patient and cannot replace the patient-physician relationship. No ethical or rule violation occurred when the office refused to make an appointment for this patient.

29. CR 11-068

Dr. Dumont moved to investigate further CR 11-068. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

30. CR 11-083

Ms. Clukey moved to dismiss CR 11-083. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Oldham recused.

The patient complains she was unable to obtain her complete medical records from her physician of 23 years, who was retiring. She also complains that the physician sent her records to another physician without her permission and that some of her records were altered. The physician responds that the office procedure at her medical practice is to keep medical records for 7 of the most recent years and also to forward only copies of records generated by their own practitioners. Records generated from other sources are included if the records contain information pertinent to a specific medical problem. The patient's records for the last 7 years were sent to the patient's new physician, at the patient's request. The originals of pertinent medical records more than 7 years old were sent directly to the patient. Copies of the patient's record from the most recent 7 years were also sent to the complainant. The physician states none of the complainant's records were altered. The Board feels the patient's records were handled appropriately.

31. CR 11-084

Dr. Jones moved to dismiss CR 11-084. Dr. Nyberg seconded the motion, which passed unanimously.

The complainant alleges the physician assistant he was seeing as his primary care provider failed to treat the complainant's pain. The complainant also states the physician did not respond in an

appropriate time frame to the patient's phone calls, did not see him in a timely fashion as a walk-in for a face to face conversation, and that chart documentation of the patient's behavior and discharge from the practice was libelous.

Review of the complaint, the physician assistant's response, the patient's rebuttal, and the office records and supervising physician's response does not support the complainant's allegations.

There was a clearly documented discussion of the physician assistant's desire not to use narcotics, a prescription for alternative pain medicine, and finally a small prescription of narcotics supplied for a car trip to Bangor. The patient used these narcotics prior to the trip, and much of the complaint centers around the patient seeking more narcotics. There was appropriate documentation of the reasons for discharge from the physician assistant's practice.

32. CR 11-097

Dr. Gleaton moved to dismiss CR 11-097. Dr. Jones seconded the motion, which passed unanimously.

This is a complaint by a frustrated stepfather. He complained that a pediatric endocrinologist who specializes in diabetes did not act professionally towards his stepdaughter, his wife or him. Review of the records shows a patient (the stepdaughter of the complainant) in extremely poor control of her life threatening diabetes combined with an extremely difficult family social structure resulting in the inability to fully rectify the medical situation. Frustration was apparent in the course of events of the examination. There was evidence that the physician has patiently tried to help this family with their three diabetic children understand the dangers of the disease and the necessity to control the situation. A nurse was present and involved in the care and her notes reflect the appropriate plan and concerns of the physician.

33. CR 11-098

Ms. Clukey moved to investigate further CR 11-098. Dr. Jones seconded the motion, which passed unanimously.

34. CR 11-135

Dr. Gleaton moved to dismiss CR 11-135. Dr. Hatfield seconded the motion, which passed unanimously.

A paranoid schizophrenic patient complained that his treating psychiatrist has been overmedicating him. Review of the complaint, physician response and records indicates appropriate, reasonable psychiatric care and medication treatment for a difficult disease in a patient who does not like treatment, does not want to be in the hospital setting with loss of freedom, and who has other serious medical comorbidities that are difficult to address. To accomplish reasonable care the patient has court appointed guardianship.

35. CR 11-173 OMAR MALICK, M.D.

Dr. Gleaton moved to order an adjudicatory hearing with a reprimand and fine in the matter of CR 11-173 Omar Malick, M.D. Ms. Clukey seconded the motion, which passed unanimously.

Dr. Gleaton moved to deny Dr. Malick's request for a waiver of passing the USMLE for permanent license. Dr. Dumont seconded the motion, which passed unanimously.

Dr. Gleaton moved that in the event the Board receives an application from Dr. Malick for an extension of his temporary license the application be denied. Dr. Hatfield seconded the motion, which passed unanimously.

36. CR 11-140

Dr. Nyberg moved to dismiss CR 11-140 in light of the physician's acceptance of a permanent revocation. Dr. Jones seconded the motion, which passed unanimously.

37. CR 11-207

Dr. Nyberg moved to dismiss CR 11-207 in light of the physician's acceptance of a permanent revocation. Dr. Jones seconded the motion, which passed unanimously.

IV. ASSESSMENT & DIRECTION

38. AD 11-090

Dr. Jones moved to investigate further AD 11-090. Dr. Gleaton seconded the motion, which passed unanimously.

39. AD 11-206

Dr. Hatfield moved to file AD 11-206. Dr. Gleaton seconded the motion, which passed unanimously.

V. INFORMAL CONFERENCE(S) (NONE)

VI. MINUTES OF MAY 10, 2011

Dr. Jones moved to approve the minutes of May 10, 2011. Dr. Dumont seconded the motion, which passed unanimously.

VII. BOARD ORDERS & CONSENT AGREEMENT MONITORING & AND APPROVAL

A. BOARD ORDERS (NONE)

B. CONSENT AGREEMENT MONITORING AND APPROVAL

1. ANDREW FLETCHER, M.D.

According to section 12e (iii) of Dr. Fletcher's Consent Agreement he is to provide urine samples for testing for the presence of prohibited substances at least once a week. Dr. Fletcher is requesting that the Board approve a decrease in his urine testing to twice monthly.

Section 12e(i) of Dr. Fletcher's Consent Agreement states "Dr. Fletcher shall consult counsel for the purpose of working on all issues pertaining to his substance abuse issues including Dr. Fletcher's compliance with this Consent Agreement, which consultations shall be at least twice monthly." Dr. Fletcher is requesting the Board's approval to decrease such counseling to once per month.

Dr. Nyberg moved to accept Dr. Fletcher's request for monthly counseling and by-weekly urine testing, but with a Board requirement of 4 additional random urine tests per year. Ms. Clukey seconded the motion, which passed 5-0-0-2 with Dr. Dumont and Dr. Jones recused.

2. DANIEL BOBKER, M.D.

Dr. Bobker entered a second Consent Agreement with the Board on January 27, 2010, following a report from the MPHP that Dr. Bobker tested positive for Hydrocodone and admitted using drugs that were not prescribed to him. Dr. Bobker has made two requests of the Board:

1. To decrease his urine testing to three times per month, and
2. To decrease his substance abuse counseling with Dr. Publicker to once every two (2) months.

Dr. Gleaton moved to approve Dr. Bobker's requests. Dr. Jones seconded the motion, which passed 6-0-0-1 with Dr. Hatfield recused.

3. MICHAEL BELL, M.D.

Dr. Jones moved to table Dr. Bell's request to modify his Consent Agreement. Ms. Clukey seconded the motion, which passed 5-0-0-2 with Dr. Hatfield and Dr. Dumont recused.

4. ROBERT ANDERWS, M.D.

Dr. Andrews entered a Consent Agreement with the Board on October 14, 2008, after the Board received a complaint that Dr. Andrews had been writing prescriptions for his girlfriend.

The Board required Dr. Andrews to complete CME courses in ethics and boundaries and prescribing practices. Dr. Andrews has completed a course at Case Western Reserve to fulfill the ethics and boundaries requirement but has not completed a course on prescribing practices. Dr. Andrews is now requesting the Board release him from such a course because he has not and does not plan to write any prescriptions. Dr. Andrews would like the Board to grant him an unrestricted license prior to his "full retirement."

Dr. Dumont moved to deny Dr. Andrews' request for an unrestricted license until he fulfills the requirements in his Consent Agreement. Dr. Nyberg seconded the motion, which passed unanimously.

5. CR 10-165 PATRICK FALLON, M.D.

Dr. Fallon is requesting approval of Larry O. Hopperstead, M.D. as his practice monitor.

Dr. Gleaton moved to approve Larry O. Hopperstead, M.D. as Dr. Fallon's practice monitor. Dr. Dumont seconded the motion which passed 50-0-02 with Dr. Jones and Dr. Hatfield recused.

VIII. ADJUDICATORY HEARING

A. CR 10-398 ALLEN T. JACKSON, M.D.

This matter was originally scheduled for a license denial hearing. Prior to hearing, the Board's assigned legal counsel contacted Dr. Jackson, who agreed to postponement of the hearing in order to allow the Board an opportunity to reconsider its original decision to preliminarily deny licensure in light of new information obtained by Board staff.

Dr. Gleaton moved to unset the Adjudicatory Hearing regarding the appeal of the preliminary denial of license in the matter of Allen T. Jackson, M.D. Ms. Cluke seconded the motion, which passed unanimously.

The Board received and reviewed additional information regarding Dr. Jackson's application for licensure, which was received after the Board's initial decision to preliminarily deny his application for licensure but prior to hearing. The Board reviewed the procedural history of Dr. Jackson's application which began when the Board received his application in March of 2010. In July of 2010 the Board preliminarily denied the license application based upon a negative telephonic reference provided to the Assistant Executive Director by Optometrist Dr. Michael Haynes, primary owner of Vision One, Daytona Beach, Florida, who questioned Dr. Jackson's competency regarding certain procedures. Dr. Jackson filed a timely appeal of his preliminary denial and the matter was set for hearing. Subsequently, the Board received information about the business relationship between Dr. Haynes, who provided the negative reference, and Dr. Jackson. The Board staff also obtained letters of recommendation attesting to Dr. Jackson's competency from physicians, optometrists, and optometry technicians who worked with Dr. Jackson.

Dr. Hatfield moved to reverse the Board's preliminary denial of the permanent license application of Alan T. Jackson, M.D. and grant Dr. Jackson a full and unrestricted Maine medical license. Dr. Jones seconded the motion, which passed unanimously.

IX. REMARKS OF CHAIRMAN

Dr. Oldham reminded members of the statutory mandate for election of officers at the July meeting.

X. EXECUTIVE DIRECTOR'S MONTHLY REPORT

A. COMPLAINT STATUS REPORT (FYI)

B. POLICY REVIEW – H-1B VISA STATUS ACCOMODATION

Dr. Nyberg moved to reaffirm the H-1B Visa Status Accommodation policy. Dr. Gleaton seconded the motion, which passed unanimously.

C. REPEAL OF CHAPTER 3

Dr. Jones moved to go forward with rule-making to repeal the Chapter 3 rules because the statutory basis was repealed in 2009. Dr. Nyberg seconded the motion, which passed unanimously.

XI. MEDICAL DIRECTOR'S REPORT (NONE)

XII. REMARKS OF ASSISTANT ATTORNEY GENERAL (NONE)

XIII SECRETARY'S REPORT

A. LIST A

1. M.D. LIST A – LICENSES FOR RATIFICATION

Dr. Gleaton moved to ratify Dr. Hatfield's approval of the physicians on M.D. List A for licensure. Ms. Clukey seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary Gary R. Hatfield, M.D. without reservation:

<u>NAME</u>	<u>SPECIALTY</u>	<u>LOCATION</u>
Almond, Patrick S.	Surgery	Bangor
Bojkovic, Michael N.	Psychiatry	Not Listed
Delaney, Erin W.	Family Medicine	Portland
Deloff, Patricia M.	Internal Medicine	Portland
Dersch, Candice M.	OB/GYN	Portland

Diener, Jakow G.	Medical Oncology	Not Listed
Grant, Mark A.	Surgery / Trauma/ Critical Care	Bangor
Kaizuka, Sachiko	Family Medicine	Sacopec Valley
Kimberly, William T.	Neurology	Portland
Lewis, Jennifer M.	Internal Medicine	Portland
Momeni, Arash K.	Diagnostic Radiology	Presque Isle
Ning, Ming Ming	Neurology	Portland
Norris, William E.	Internal Medicine	Bangor
Patino, William D.	A&C Pathology	Not Listed
Perry, Jordan	Family Practice	Not Listed
Rosenthal, Eric S.	Neurology	Portland
Rutherford, Katherine P.	Pediatrics	Portland
Satterfield, Sharon B.	Psychiatry	Rockport
Shields, Catherine A.	Anesthesiology	Bangor
Singhal, Aneesh B.	Neurology	Portland
Sobin, Paul B.	Child Psychiatry	Portland
Sommer, John E.	Pediatrics	Portland
Still, Brian R.	Psychiatry	Not Listed
Webb, Timothy S.	Family Medicine	Waterville
Wyse, Jason	Anesthesiology	Waterville
Zent, Kevin B.	Family Medicine	Dover, NH

2. P.A. LIST A – LICENSES FOR RATIFICATION

Dr. Jones moved to ratify Dr. Hatfield's approval of the physician assistants on P.A. List A for licensure. Dr. Gleaton seconded the motion, which passed unanimously.

The following license applications have been approved by staff and Board Secretary Gary R. Hatfield, M.D. without reservation:

Name	License	PSP	Location
Mindy Pomerleau, P.A.-C.	Inactive	None	None
Jennifer Yandow, P.A.-C.	Inactive	None	None
Mark Neer, PA-C	Active	Julius Krevans, M.D.	Bar Harbor
Daniel Lowery, PA-C.	Inactive	None	None

B. LIST B – APPLICATIONS FOR INDIVIDUAL CONSIDERATION

1. TERRI NEER, P.A.-C.

The Licensure Committee moved to approve the physician assistant license application of Terri Neer, P.A.-C. The motion passed unanimously.

2. ALI ABBASIAN-HERSINI, M.D.

The Licensure Committee moved to approve a permanent active license for Ali Abbasian-Hersini, M.D., pending receipt of his social security number. The motion passed unanimously.

3. ATIQ-UR REHMAN, M.D. (TABLED)

4. ANIMESH C. SHAH, M.D.

The Licensure Committee moved to approve the permanent active license application of Animesh C. Shah, M.D. The motion passed unanimously.

5. KIM M. STEWART, M.D. (TABLED)

C. LIST C – APPLICATIONS FOR REINSTATEMENT (NONE)

D. LIST D WITHDRAWALS

1. LIST D (1) WITHDRAW LICENSE APPLICATION (NONE)

2. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION

Dr. Gleaton moved to approve the physicians on List-D (2) who have applied to withdraw their licenses from registration. Dr. Jones seconded the motion, which passed unanimously.

The following physicians and physician assistants have applied to withdraw their licenses from registration:

<u>NAME</u>	<u>LICENSE NUMBER</u>
Edward, Barrera	017261
Machineni, Sriram	018064
Ravitz, Bernard	012851

3. LIST D (2) WITHDRAW LICENSE FROM REGISTRATION – INDIVIDUAL CONSIDERATION

a. TINA MAXIAN, M.D.

The Licensure Committee moved to approve Dr. Maxian's request to withdraw from licensure. The motion passed unanimously.

E. LIST E LICENSES TO LAPSE BY OPERATION OF LAW

The following physician licenses lapsed by operation of law effective May 26, 2011.

<u>NAME</u>	<u>LICENSE NO.</u>
Contant, Casey	018256
Ezeanuna, Prosperity U.	017778
Hoene, Barbara	010912
Holaaepfel, Jonathan	009855
Ito, Kouta	018531
Narra, Bapuji	010153
Park, Chong Hoon	008823
Quintanilla, Antonio	006559
Reyes, Bernadette	011013
Reyes, Marilou	018021
Sanderson, Iain	008408
Valdes-Murua, Honorio	015923
Yates, Michael	017862

F. LIST F LICENSES REQUESTING TO CONVERT TO ACTIVE STATUS (NONE)G. LIST G RENEWAL APPLICATIONS FOR INDIVIDUAL CONSIDERATION1. DEEP ACHARYA, M.D.

The Licensure Committee moved to order Dr. Acharya to undergo a 3286 evaluation.
The motion passed unanimously.

H. LIST H PHYSICIAN ASSISTANT SCHEDULE II AUTHORITY FOR RATIFICATION1. APPLICATIONS TO RENEW SCHEDULE II AUTHORITY

Dr. Jones moved to approve renewal of schedule II authority for the following physician assistants. Dr. Dumont seconded the motion, which passed unanimously.

The following request for renewal of Schedule II prescribing authority has been approved by the Board Secretary Gary R. Hatfield, M.D.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Gregg Christensen, PA-C	Darin Peck, MD	Greenville, ME

2. APPLICATIONS FOR NEW SCHEDULE II AUTHORITY

Dr. Gleaton moved to approve schedule II authority for the following physician assistants. Dr. Jones seconded the motion, which passed unanimously.

The following new requests for Schedule II prescribing authority have been approved by the Board Secretary Gary R. Hatfield, MD.

<u>NAME</u>	<u>PSP</u>	<u>LOCATION</u>
Erica Rice, P.A.-C	Michael Gibbs, M.D.	Portland
Claire Costanza, P.A.-C	Michelle Toder, M.D.	Bangor
Joel Chretien, P.A.-C	Eric Hoffman, M.D.	Portland
Mary Cole-Almgren, P.A.-C	Andrew Dionne, M.D.	Waterville

IV. STANDING COMMITTEE REPORTS

A. LEGISLATIVE & REGULATORY COMMITTEE (FYI)

B. PHYSICIAN ASSISTANT ADVISORY COMMITTEE

1. COMMITTEE NOMINATIONS

- a. The PA Advisory Committee recommended Ronald D. Oldfield P.A.-C to fill an immediate vacancy on the PA Advisory Committee, E. Victoria Grover P.A.-C and Ruth E. McNiff P.A.-C to be seated at the December meeting with voting rights starting in 2012.

Dr. Nyberg moved to appoint Ronald D. Oldfield, P.A.-C to fill an immediate vacancy on the committee, E. Victoria Grover, P.A.-C and Ruth E. McNiff, P.A.-C to start at the December meeting. Ms. Clukey seconded the motion, which passed unanimously.

- b. The PA Advisory Committee recommended Erich A. Fogg, P.A.-C, Christopher R. Ross, PA-C and Phillip S. Anson, M.D. to serve a second term on the committee.

Dr. Jones moved to approve Erich A. Fogg, P.A.-C, Christopher R. Ross, PA-C and Phillip S. Anson, M.D. for a second term on the committee. Dr. Gleaton seconded the motion, which passed unanimously.

2. RESIGNATION & FEEDBACK

FYI, Tamas R. Peredy, M.D. tendered his resignation from the PA Advisory Committee.

3. PHYSICIAN ASSISTANT COMMITTEE REPORT

Dr. Oldham moved to instruct Board staff to develop language for Chapter 2 rules which involves the roll of the Board in monitoring PA owned practices that employ the supervising physician. Dr. Jones seconded the motion, which passed unanimously.

XV. BOARD CORRESPONDENCE (FYI)

XVI. FYI

XVII. FSMB MATERIAL (NONE)

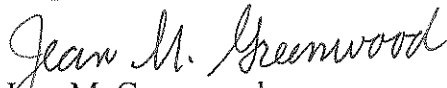
XVIII. OTHER BUSINESS

A. GORDON SMITH, ESQ., MAINE MEDICAL ASSOCIATION REMARKS

Mr. Smith reported the Executive Committee of MMA will be sending a letter regarding the jurisprudence exam suggesting: (1) the Board consider awarding CME for State Exam, (2) allow a second chance at the exam on the rule that if they fail the exam they have to come before the Board, and (3) that the Board should have a review of the exam procedure in three or four years.

XIX. ADJOURNMENT 3:02 P.M.

Respectfully submitted,



Jean M. Greenwood
Board Coordinator